

Raife R. Neuman, OSB 084307
raife@intelekia-law.com
Ryan Vanden Brink, OSB 091833
ryan@intelekia-law.com
INTELEKIA LAW GROUP LLC
308 SW First Avenue, Suite 325
Portland, OR 97204
(ph) 503-227-8580
(fax) 503-296-2518
Attorneys for Defendant John Fraser

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON, PORTLAND DIVISION

OCWEN LOAN SERVICING, LLC,

Plaintiff,

v.

JOHN W. FRASER,

Defendant,

ONEWEST BANK, FSB; FEDERAL
NATIONAL MORTGAGE ASSOCIATION

Third Party Defendants.

Case No.: 3:14-cv-1985

**DEFENDANT JOHN FRASER'S NOTICE OF
REMOVAL**

Pursuant to 28 U.S.C § 1331
(Federal Question)

Clatsop County Circuit Court
Case No. 13-2356

TO: United States District Court, District of Oregon; Court Clerk, Clatsop County Circuit Court; Plaintiff and Third Party Defendants

Pursuant to 12 U.S.C. § 1723a(a), 28 U.S.C. §§ 1331, 1441, 1446, and *Lightfoot v. Cendant Mortgage Corp., et al*, No. 10-56068 (9th Cir. Oct. 2, 2014), Defendant John Fraser

removes this action from the Clatsop County Circuit Court of the State of Oregon to the United States District Court, District of Oregon, Portland Division.

1. This action is being removed to federal court based on federal question jurisdiction.
2. On or about June 4, 2013, OneWest Bank FSB (OneWest) filed the foreclosure complaint in this matter. A true copy of this complaint and exhibits is attached as Exhibit 1.
3. On January 14, 2014, Ocwen Loan Servicing LLC (Ocwen) was substituted as plaintiff in this action, in place of OneWest. A true copy of this substitution order is attached as Exhibit 2.
4. After a hearing on Ocwen's motion to dismiss defendant John Fraser's (Fraser) counterclaims contained in his original answer, Fraser filed a first amended answer containing affirmative defenses, counterclaims, and crossclaims on or about September 24, 2014. A true copy of this amended answer is attached as Exhibit 3. The amended answer added OneWest and Federal National Mortgage Association (Fannie Mae) as third party defendants in this matter. A true copy of Fraser's October 14, 2014 certificate of service upon OneWest and Fannie Mae is attached as Exhibit 4. Both have appeared through Ocwen's counsel of record.
5. While this action was pending in state court, plaintiff obtained default orders against original co-defendants Oregon Affordable Housing Assistance Corporation, and unknown persons or parties claiming any interest in the property. A true copy of this default order is attached as Exhibit 5. Plaintiff also obtained a default order against original co-defendants Thomas C. Souply and Kathleen Souply. True copies of this proposed, stipulated default order and docketed default are attached as Exhibit 6. As such, these parties were not included in the case caption and are not being served with notice of removal to federal court.
6. On or about December 4, 2014, Ocwen, OneWest and Fannie Mae submitted a motion to dismiss and strike Fraser's counterclaims contained in his amended answer. A true

copy of this motion is attached as Exhibit 7. This motion was emailed to Fraser's counsel on December 10, 2014 and is pending in state court.

7. This Notice of Removal is being filed as soon as practicable after the addition of Fannie Mae as a third party defendant, review of the *Lightfoot* case, and notice to opposing counsel on December 4, 2014 of Fraser's intent to remove to federal court. In *Lightfoot*,

8. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Fannie Mae's federal corporate charter confers federal question jurisdiction over claims brought by or against Fannie Mae. *Lightfoot*, p.19 (district court had subject matter jurisdiction over claims involving Fannie Mae).

9. Venue lies in this Court because the action is pending in Clatsop County Circuit Court, which is within this District and Division. 28 U.S.C. § 1446(a).

10. Pursuant to 28 U.S.C. § 1446(d), concurrently with filing this Notice of Removal, Fraser is filing and serving a Notice of Filing of Removal to Federal Court to the Clatsop County Circuit Court Clerk, plaintiff Ocwen, and third party defendants OneWest and Fannie Mae. True copies of these notices, without exhibits, are attached as Exhibit 8.

11. Fraser does not waive any defenses by filing this notice.

12. This notice is filed in accordance with FRCP 11.

Based upon the foregoing, Fraser removes this action from the Clatsop County Circuit Court for the State of Oregon to the United States District Court, District of Oregon, Portland Division.

///

///

///

NOTICE OF REMOVAL - Page 3
Ocwen v Fraser, et al

INTELEKIA LAW GROUP LLC
308 SW First Avenue, Suite 325
Portland, OR 97204
PH 503.227.8580 FAX 503.296.2518

DATE December 11, 2014.

INTELEKIA LAW GROUP LLC

/s/ Ryan Vanden Brink
Raife Neuman, 084307
raife@intelekia-law.com
Ryan Vanden Brink, OSB 091833
ryan@intelekia-law.com
308 SW First Avenue, Suite 325
Portland, OR 97204
Ph: 503-227-8580
Fax: 503-296-2518
Attorneys for Defendant John Fraser

CERTIFICATE OF SERVICE

On the below date, I served a true copy of this “Notice of Removal” by first class mail on:

Carlos A. Rasch, OSB #072179
crasch@houser-law.com
HOUSER & ALLISON, APC
9600 SW Oak St., Suite 570
Portland, OR 97223
Telephone: (503) 914-1382
Facsimile: (503) 914-1383
Attorneys for Plaintiff and Third Party Defendants

DATED December 11, 2014.

/s/ Ryan Vanden Brink
Ryan Vanden Brink, OSB 091833